



FILING A DISCRIMINATION COMPLAINT

Who may file?

Any employee or applicant for employment who believes that he or she has been discharged or denied employment or otherwise discriminated against in violation of any law under the jurisdiction of the Labor Commissioner, may file a complaint with the Labor Commissioner by completing and mailing the complaint form (DLSE 205) to address below.

What is the time limit for filing?

A complaint alleging discrimination and/or retaliation in violation of laws under the jurisdiction of the Labor Commissioner must be filed within **six (6) months** after the occurrence of the alleged discriminatory and/or retaliatory action, except for complaints filed under Labor Code sections 230(c), 230.1, 1197.5, and Health and Safety Code section 1596.881 (see below).

Where do I file?

Mail the completed (signed and dated) complaint form to:

Division of Labor Standards Enforcement
Discrimination Complaint Investigation Unit
50 'D' Street, Suite 360
Santa Rosa, CA 95404

Laws enforced by the Labor Commissioner that specifically prohibit discrimination and retaliation against employees and job applicants are:

- (1) **Labor Code Section 96(k)**
For loss of wages as the result of a failure to hire, or demotion, suspension, or discharge from employment because of engaging in lawful conduct occurring during nonworking hours away from the employer's premises.
- (2) **Labor Code Section 98.6**
For filing or threatening to file a claim or complaint with the Labor Commissioner, instituting or causing to be instituted any proceeding relating to rights under the jurisdiction of the Labor Commissioner, or testifying in any such proceeding, or for exercising (on behalf of oneself or other employees) any of the rights provided under the Labor Code or Orders of the Industrial Welfare Commission, including, but not limited to, the right to express opinions about an alternative workweek election, or supporting or opposing the adoption or repeal of an alternative workweek election.
- (3) **Labor Code Sections 230(a) and (b)**
For taking time off to serve on a jury or appearing as a witness in court.
- (4) **Labor Code Section 230(c)**
For discharging or in any manner discriminating or retaliating against an employee who is a victim of domestic violence and/or a victim of sexual assault for taking time off from work to obtain relief or attempt to obtain relief to help ensure his or her health, safety, or welfare, or that of his or her child(ren). (The complaint must be filed within one year from the date of occurrence of the violation.)

- (5) **Labor Code Section 230.1**
Protects an employee who is a victim of domestic violence and/or a victim of sexual assault and works for an employer with 25 or more employees who takes time off to seek medical attention, to obtain services from a domestic violence program or psychological counseling, or to participate in safety planning. (The complaint must be filed within one year from the date of occurrence of the violation).
- (6) **Labor Code Section 230.3**
For taking time off to perform emergency duty as a volunteer firefighter, reserve police officer, or emergency rescue personnel.
- (7) **Labor Code Section 230.4**
Protects an employee who is a volunteer firefighter and works for an employer employing 50 or more employees from being discriminated or retaliated against because he or she has taken time off to engage in fire or law enforcement training. The employee is permitted to take up to an aggregate of 14 days per calendar year for such training.
- (8) **Labor Code Section 230.7 and Education Code Section 48900.1**
An employee who is the parent or guardian of a pupil for taking time off to appear in the pupil's school at the request of the pupil's teacher.
- (9) **Labor Code Section 230.8**
By an employer who employs 25 or more employees against an employee who is a parent, guardian, or grandparent having custody of a child, for taking time off (up to 40 hours each year, not exceeding eight hours in any calendar month) to participate in activities of the child's school.
- (10) **Labor Code Sections 232(a) and (b)**
For discussing or disclosing his or her wages, or for refusing to agree not to disclose his or her wages.
- (11) **Labor Code Section 232.5**
Prohibits an employer from requiring that an employee refrain from disclosing information about the employer's working conditions, and from requiring an employee to sign a waiver or other document that restricts or denies the employee the right to disclose information about the employer's working conditions.
- (12) **Labor Code Section 233**
For using, or attempting to exercise the right to use sick leave to attend to the illness of a child, parent, spouse, domestic partner, or child of the domestic partner of the employee.
- (13) **Labor Code Section 432.7**
Protects the rights of an applicant for employment or employee from disclosing information concerning an arrest or detention that did not result in conviction, or any information regarding referral to, and participation in, any pretrial or post-trial diversion program.
- (14) **Labor Code Section 752**
To ensure that employees in non-unionized smelters or underground mines have a right to a fair and impartial election to establish a workday greater than eight hours.
- (15) **Labor Code Sections 1025-1028**
By a private employer regularly employing 25 or more employees against an employee who believes she or he has been denied reasonable accommodation to participate in an alcohol or drug rehabilitation program.
- (16) **Labor Code Section 1041**
By a private employer regularly employing 25 or more employees against an employee who believes she or he has been denied reasonable accommodation to enroll and participate in an adult literacy education program.
- (17) **Labor Code Sections 1101 and 1102**
For engaging in political activity of the employee's choice.
- (18) **Labor Code Section 1102.5**
For disclosing information to a government or law enforcement agency where the employee has reasonable cause to believe that the information discloses a violation of a state or federal statute, or violation or noncompliance with a state or federal regulation.

- (19) **Labor Code Section 1171**
As to persons participating in a national service program (e.g., AmeriCorps), for refusing to work overtime for any legitimate reason.
- (20) **Labor Code Section 1197.5**
For being paid at a wage rate less than the rate paid to employees of the opposite sex in the same establishment for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions, except where the payment is made pursuant to a seniority system, a merit system, a system which measures earnings by quantity or quality or production, or a differential based on any bona fide factor other than sex. (A civil action to recover wages under Section 1197.5(a) may be commenced no later than two years after the cause of action occurs, except that a cause of action arising out of a willful violation may be commenced no later than three years after the cause of action occurs.)
- (21) **Labor Code Section 1198.3**
For refusing to work hours in excess of those permitted by the Industrial Welfare Commission (IWC) Orders.
- (22) **Labor Code Section 2929(b)**
By reason of the fact that the garnishment of an employee's wages has been threatened, or that his or her wages have been subjected to garnishment for the payment of one judgment. The employee shall give notice to his or her employer of his or her intention to make a wage claim within 30 days after being discharged, and file a wage claim with the Labor Commissioner within 60 days after being discharged.
- (23) **Labor Code Section 2930**
For failing to provide an employee with a copy of a shopping investigator's report before disciplining or discharging the employee, where the discipline or discharge is based on a shopping investigator's report of the employee's conduct, performance, or honesty.
- (24) **Labor Code Section 6310**
For (1) complaining about safety or health conditions or practices, (2) instituting or causing to be instituted any proceeding relating to the employee's rights to safe and healthful working conditions, or testifying in any such proceeding, or (3) participating in an occupational health and safety committee established pursuant to Labor Code Section 6401.7.
- (25) **Labor Code Section 6311**
For refusing to perform work in the performance of which the Labor Code, any occupational safety or health standard or order would be violated where the violation would create a real and apparent hazard to the employee or his or her co-workers.
- (26) **Labor Code Section 6399.7**
For complaining or testifying regarding non-compliance with the Hazardous Substances Information and Training Act.
- (27) **Health and Safety Code Section 1596.881**
For (1) complaining about the violation of any licensing or other laws relating to child day care facilities (e.g., staff-child ratios, transportation of children, or child abuse), (2) instituting or causing to be instituted any proceeding against the employer relating to the violation of any licensing or other laws, (3) appearing as a witness or testifying in a proceeding relating to the violation of any licensing or other laws, or refusing to perform work in violation of a licensing or other law or regulation after notifying the employer of the violation. A claim by the employee alleging the violation by the employer of Section 1596.881 shall be presented to the employer within 45 days after the action as to which complaint is made, and presented to DLSE not later than 90 days after the action as to which complaint is made.
- (28) **Unemployment Insurance Code Section 1237**
For seeking information from the Employment Development Department (EDD) concerning rights under the Unemployment Insurance Code or Labor Code, cooperating with any investigation undertaken by EDD, or testifying in any proceeding brought pursuant to the Unemployment Insurance Code or the Labor Code.
- (29) **IWC Orders 1 through 13, Section 3(C)(8), IWC Order 16 Section 3(C)(7)**
For expressing an opinion concerning an alternative workweek election or for opposing or supporting its adoption or repeal.